(31)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

Single Bench : Hon'ble Shri Justice Satish K. Agnihotri

WRIT PETITION (S) NO. 2120 OF 2007

Petitioner

Shanti Lal Sahu, Aged 34 years, S/o Shri Gahiru Ram Sahu, Posted as Patwari at P.H. No.15, Tehsil Gurur, District Durg (CG). R/o Village Kaneri, Tehsil Gurur, District Durg (CG).

Versus

Respondent

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, D.K.S. Bhawan, Raipur.
2. The Collector (Land Record), District Durg (CG).
3. Sub Divisional Officer (R), Sub Division, Balod, District Durg (CG).
4. Suklal Thakur, Patwari, P.H.No.9 Village Ramtara, Tehsil Gurur, District Durg (CG).
5. Bharat Lal Sahu, Patwari & President of Tehsil Patwari Sangh, Village Kundani, Tehsil Gurur, District Durg (CG).

Present :- Shri R.K. Kesharwani, counsel for the petitioner.

Shri Arvind Dubey, Panel Lawyer for the State/ respondents No.1 to 3.

ORDER
(Passed on 5th April, 2007)

Learned counsel appearing for the petitioner submits that the petitioner is working as Patwari in Patwari Halka No.15. On the basis of some complaint, the petitioner was posted in Patwari Halka No.9 within the same Sub Division vide order dated 21-3-2007 (Annexure-P/1), passed by the Sub Divisional Officer (Revenue), Balod.

2) Learned counsel further submits that the main contention of the petitioner is that no transfer on the basis of complaint can be made without holding proper enquiry.

3) The contention of the petitioner is noticed to be dismissed on the simple ground that it is well settled principle of law that if on a complaint, an employer feels that a detailed enquiry is not required to impose any penalty, if the nature of the compliant is not that serious, the employer can resolve the issue by transferring an employee by one place to other place. In the present petition, the petitioner has not been removed from one Division to another Division, but has been transferred from one Patwari Halka to other Patwari Halka within the same Division. The second contention, that there is a ban on transfer for three years as per the transfer policy, is also not sustainable as the transfer policy is not mandatory, but regulatory and the clause 2(4) of the transfer policy 2006-07 provides that as far as possible a person should not be transferred for minimum three years. The transfer should be made on the basis of the preliminary enquiry of the complaint. In the present case preliminary enquiry was held wherein no notice was required to be given to the petitioner.

4) It is well settled that the transfer of an employee can be made on the basis of the complaint. Transfers unless they involve any such adverse impact or visit the persons concerned with any penal consequences, are not required to be subjected to same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination and utmost latitude should be left with the department concerned to enforce discipline, decency and decorum in public service which are indisputably essential to maintain

quality of public service and meet untoward administrative exigencies to ensure smooth functioning of the administration. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether the complaint was true, is unnecessary and what is needed is the *prima facie* satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by the respondents, of holding an elaborate enquiry is to be insisted upon, the very purpose of transferring an employee in public interest of exigencies of administration enforce decorum and ensure probity would get frustrated. (See *Union of India and others vs. Janardhan Debanath and another) {(2004) 4 SCC 245 at page 251}).*

5) It is also well settled principle of law that transfer is an incident of service and it is for employer to decide as to where a particular officer/ employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved *mala fide*, non-competence of authority passing the transfer order and transfer order not being conformity with the rules and regulations.

6) In view of the foregoing, this petition stands dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit
Gowri